IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 6348 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHESHBHAI BHIKHUBHAI RAVRANI & 3 - Applicant(s)
Versus
SHITALBEN WIFE OF MAHESHKUMAR BHIKHALAL RAVRANI & 1 - Respondent(s)

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Appearance :

MR RR TRIVEDI for Applicant(s) : 1 - 2, 4,MR BHAVESH P TRIVEDI for Applicant(s) : 1 - 2, 4,
MS SRUSHTI A THULA for Respondent(s) : 1,
MR DIPEN DESAI, APP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/10/2007

ORAL JUDGMENT

In the present petition, the petitioner has prayed for quashing of complaint dated 1.7.2002 being

C.R.No.367 of 2002 filed by respondent No.1. The complaint is produced at Annexure B to the petition.

2. Petitioner No.1 is the husband of the complainant and rest of the petitioners are the relatives of the husband. On account of marital disputes, there were some disputes between the parties. The complainant therefore lodged a complaint on 10.2.2002 before Pradyuman Nagar Police Station bearing C.R.No.77/02. In the said complaint, the complainant made allegations, inter alia, to the effect that she was being harassed and tortured by the accused and she is driven out from matrimonial home. She is residing at Rajkot but nobody has come to take her back. It is further stated that the accused have also taken away her 'stridhan' and thereby committed the criminal offence.

3. Once again, on 1.7.2002, abovementioned fresh complaint at Annexure B came to be filed before the same police station about the same ill treatment of the complainant.

4. Learned advocate Shri Trivedi appearing for the petitioners pointed out that the investigation with respect to the first complaint is over and chargesheet is also filed. It is, therefore, not open for the complainant to file a fresh complaint on same set of facts and that the same was done to harass the petitioners.

5. Learned advocate Ms.Srushti Thula for the complainant submitted that the subsequent complaint at Annexure B was filed in view of the fact that the petitioners had after filing of the first complaint entered into a compromise to return the 'stridhan' to the complainant as also to take her back to her matrimonial home. Having breached the promise, the complainant was compelled to file a fresh complaint.

6. I have also heard learned APP Shri Dipen Desai for the State.

7. Having heard the learned advocates appearing for the parties and having perused the two complaints lodged by respondent No.1 herein, I have no manner of doubt that the subsequent complaint cannot be sustained. The allegations in both the complaints are with respect to same set of facts and the alleged ill-treatment of the complainant by the petitioners. When the investigating agency has already carried out the investigation and filed chargesheet in connection with the first complaint, without there being any further developments, it was not open for respondent No.2 to lodge a fresh complaint. Therefore, despite reliance placed by the learned advocate for the complainant on the decision of the Apex Court in the case of **Guru Bipin Singh v. Chongtham Manihar Singh,** AIR 1997 SC 1448, I am of the opinion that, in the facts of the case, the subsequent complaint cannot be sustained. There is nothing on record to suggest

that there was any compromise between the parties as alleged nor, prima facie, I find that breach of such alleged promise would amount to criminal offence. Therefore, since in all aspects the allegations in subsequent complaint are covered by the first complaint, the subsequent complaint at Annexure B cannot be sustained and the same is therefore hereby quashed.

8. Learned advocate for the complainant has pointed out that on account of the pendency of the present proceedings before this Court, though there was no stay against proceeding further with the trial in connection with the first complaint, the same has not proceeded so far. Under the circumstances, the concerned court is requested to give priority to the pending trial and dispose of the same as expeditiously as possible and preferably within six months from the date of receipt of a copy of this order.

9. With the above directions, the petition is disposed of. Rule is made absolute accordingly.

(Akil Kureshi, J.)

(vjn)